

AMENDED IN SENATE APRIL 6, 2006

AMENDED IN ASSEMBLY MAY 9, 2005

AMENDED IN ASSEMBLY APRIL 28, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1012

Introduced by Assembly Member Nation

February 22, 2005

~~An act to amend Section 515.5 of the Labor Code, relating to overtime.~~ *An act to add Article 7 (commencing with Section 43870) to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, relating to vehicular air pollution control.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1012, as amended, Nation. ~~Overtime compensation.~~ *Vehicular air pollution control: clean alternative fuels for motor vehicles.*

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to establish, by regulation, various standards for gasoline and motor vehicle fuel.

Existing law requires that, not later than June 30, 2007, the State Energy Resources Conservation and Development Commission, in partnership with the state board, and in consultation with specified state agencies, develop and adopt a state plan to increase the use of alternative fuels, as defined.

This bill would require the state board, by January 1, 2008, to develop and adopt regulations that would become operative no later than January 1, 2010, to increase the use of clean alternative fuels, as defined, for motor vehicles.

Existing law generally provides that a violation of any rule, regulation, or law relating to air pollution is a crime.

Because the bill would require the state board to adopt regulations the violation of which would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes the Industrial Welfare Commission to establish exemptions from overtime wage requirements for certain employees, including certain employees in the computer software field, as specified.~~

~~This bill would make technical, nonsubstantive changes to these provisions relating to employees in the computer software field, and would require the Department of Industrial Relations to report annually regarding the impact of these provisions on the retention in, recruitment to, and outsourcing from California of computer consulting jobs, including the impact on the wages, hours, overtime, and working conditions of computer consultants in California. It would further require the department to provide a copy of this report to each member of the Assembly Committee on Labor and Employment and the Senate Committee on Labor and Industrial Relations.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 7 (commencing with Section 43870) is
- 2 added to Chapter 4 of Part 5 of Division 26 of the Health and
- 3 Safety Code, to read:

Article 7. *Alternative Fuels for Motor Vehicles*

43870. *The Legislature finds and declares all of the following:*

(a) *The production, marketing, and use of petroleum fuels in the state causes significant degradation of public health and environmental quality due to the release of air pollution, including greenhouse gas emissions, and water pollutants.*

(b) *Clean, alternative fuels have the potential to considerably reduce these impacts and are important strategies for the state to attain its air and water quality goals.*

(c) *Research, development, and commercialization of alternative fuels in the state have the potential to strengthen the state's economy by providing job growth and helping to reduce the state's vulnerability to petroleum price volatility.*

(d) *Dependence on foreign oil represents a threat to the long-term security and economic stability of California and the nation.*

(e) *Reducing petroleum use is technically feasible and economically justifiable, because the State Energy Resources Conservation and Development Commission and the state board have previously recommended, in their August 2003 report to the Legislature, "Reducing California's Petroleum Dependency," that the state adopt a goal of 20 percent nonpetroleum fuel use by 2020, and 30 percent use by 2030.*

43872. (a) *For purposes of this chapter, "clean alternative fuel" means any fuel used as the certification fuel in a low-emission vehicle, other than primary gasoline or diesel fuel, used in exhaust emission-certification testing pursuant to the state board's Exhaust Emission Standards and Test Procedures for 2004 and subsequent Model Passenger Cars, Light-Duty Trucks, and Medium Duty Vehicles, as incorporated by reference in Section 1961 of Title 13 of the California Code of Regulations.*

(b) *"Clean alternative fuel" includes ethanol blends containing at least 85 percent ethanol by volume that meet the requirements of subdivision (a).*

(c) *"Clean alternative fuel" includes biodiesel fuel containing 20 percent ethanol by volume that meets the requirements of subdivision (a).*

(d) “Clean alternative vehicles” includes electric and plug-in hybrid vehicles with a minimum 20 mile all-electric range.

43874. (a) By January 1, 2008, the state board shall develop and adopt regulations that shall become operative not later than January 1, 2010, to increase the use of clean alternative fuels for motor vehicles, that do all of the following:

(1) Ensure that the total societal benefits exceed the total societal costs.

(2) Consider the technological feasibility of the regulations.

(3) Ensure that there is no net increase in emissions of greenhouse gases, toxic air contaminants, criteria air pollutants, water pollutants, or any other substances that are known to damage human health.

(b) The regulations adopted pursuant to subdivision (a) shall, at a minimum and to the extent feasible, increase use of clean alternative fuels for motor vehicles to achieve all of the following:

(1) By January 1, 2011, ___ percent of new passenger vehicles and light duty trucks offered for sale in California shall be capable of operating on clean alternative fuels.

(2) By January 1, 2020, ___ percent of new passenger vehicles and light duty trucks offered for sale in California shall be capable of operating on clean alternative fuels.

(3) By January 1, 2030, ___ percent of new passenger vehicles and light duty trucks offered for sale in California shall be capable of operating on clean alternative fuels.

(c) The regulations shall include compliance options for eligible clean alternative fuels and vehicles that take into account their relative societal benefits, including all of the following:

(1) Reduction in criteria pollutants.

(2) Reduction in air toxics.

(3) Reduction in climate change emissions, including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(4) Reduction in petroleum use.

(5) Likelihood that the vehicle will actually use non-petroleum fuels.

(6) Use of advanced vehicle technologies.

(7) Near-term fueling infrastructure availability.

1 (8) *Use of technologies that provide a technological bridge to*
2 *zero-emission technologies that utilize renewable fuels.*

3 (d) *The regulations shall apply only to a motor vehicle*
4 *manufactured after December 31, 2010.*

5 (e) *The board shall, to the extent necessary, adopt regulations*
6 *to ensure that fueling stations are sufficiently equipped to meet*
7 *the needs of drivers using clean alternative fuels for motor*
8 *vehicles.*

9 SEC. 2. *No reimbursement is required by this act pursuant*
10 *to Section 6 of Article XIII B of the California Constitution*
11 *because the only costs that may be incurred by a local agency or*
12 *school district will be incurred because this act creates a new*
13 *crime or infraction, eliminates a crime or infraction, or changes*
14 *the penalty for a crime or infraction, within the meaning of*
15 *Section 17556 of the Government Code, or changes the definition*
16 *of a crime within the meaning of Section 6 of Article XIII B of the*
17 *California Constitution.*

18 SECTION 1. ~~Section 515.5 of the Labor Code is amended to~~
19 ~~read:~~

20 515.5. ~~(a) Except as provided in subdivision (b), an~~
21 ~~employee in the computer software field is exempt from the~~
22 ~~requirement that an overtime rate of compensation be paid~~
23 ~~pursuant to Section 510 if all of the following apply:~~

24 ~~(1) The employee is primarily engaged in work that is~~
25 ~~intellectual or creative and that requires the exercise of discretion~~
26 ~~and independent judgment, and the employee is primarily~~
27 ~~engaged in duties that consist of one or more of the following:~~

28 ~~(A) The application of systems analysis techniques and~~
29 ~~procedures, including consulting with users, to determine~~
30 ~~hardware, software, or system functional specifications.~~

31 ~~(B) The design, development, documentation, analysis,~~
32 ~~creation, testing, or modification of computer systems or~~
33 ~~programs, including prototypes, based on and related to user or~~
34 ~~system design specifications.~~

35 ~~(C) The documentation, testing, creation, or modification of~~
36 ~~computer programs related to the design of software or hardware~~
37 ~~for computer operating systems.~~

38 ~~(2) The employee is highly skilled and is proficient in the~~
39 ~~theoretical and practical application of highly specialized~~
40 ~~information to computer systems analysis, programming, and~~

1 software engineering. A job title shall not be determinative of the
2 applicability of this exemption.

3 (3) ~~The employee's hourly rate of pay is not less than~~
4 ~~forty-one dollars (\$41.00). The Division of Labor Statistics and~~
5 ~~Research shall adjust this pay rate on October 1 of each year to~~
6 ~~be effective on January 1 of the following year by an amount~~
7 ~~equal to the percentage increase in the California Consumer Price~~
8 ~~Index for Urban Wage Earners and Clerical Workers.~~

9 (b) ~~The exemption provided in subdivision (a) does not apply~~
10 ~~to an employee if any of the following apply:~~

11 (1) ~~The employee is a trainee or employee in an entry-level~~
12 ~~position who is learning to become proficient in the theoretical~~
13 ~~and practical application of highly specialized information to~~
14 ~~computer systems analysis, programming, and software~~
15 ~~engineering.~~

16 (2) ~~The employee is in a computer-related occupation but has~~
17 ~~not attained the level of skill and expertise necessary to work~~
18 ~~independently and without close supervision.~~

19 (3) ~~The employee is engaged in the operation of computers or~~
20 ~~in the manufacture, repair, or maintenance of computer hardware~~
21 ~~and related equipment.~~

22 (4) ~~The employee is an engineer, drafter, machinist, or other~~
23 ~~professional whose work is highly dependent upon or facilitated~~
24 ~~by the use of computers and computer software programs and~~
25 ~~who is skilled in computer-aided design software, including~~
26 ~~CAD/CAM, but who is not in a computer systems analysis or~~
27 ~~programming occupation.~~

28 (5) ~~The employee is a writer engaged in writing material,~~
29 ~~including box labels, product descriptions, documentation,~~
30 ~~promotional material, setup and installation instructions, and~~
31 ~~other similar written information, either for print or for onscreen~~
32 ~~media or who writes or provides content material intended to be~~
33 ~~read by customers, subscribers, or visitors to computer-related~~
34 ~~media such as the World Wide Web or CD-ROMs.~~

35 (6) ~~The employee is engaged in any of the activities set forth~~
36 ~~in subdivision (a) for the purpose of creating imagery for effects~~
37 ~~used in the motion picture, television, or theatrical industry.~~

38 (c) ~~The department shall report annually regarding the impact~~
39 ~~of this section on the retention in, recruitment to, and outsourcing~~
40 ~~from California of computer consulting jobs, including the~~

1 ~~impact on the wages, hours, overtime, and working conditions of~~
2 ~~computer consultants in California. A copy of the report shall be~~
3 ~~provided to each member of the Assembly Committee on Labor~~
4 ~~and Employment and the Senate Committee on Labor and~~
5 ~~Industrial Relations.~~

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